

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHELLE COOPER,

Defendant-Appellant.

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UNPUBLISHED  
February 21, 2003

No. 235916  
Wayne Circuit Court  
LC No. 00-013214-01

Before: Markey, P.J., and Smolenski and Meter, JJ.

PER CURIAM.

Defendant was charged with two counts of involuntary manslaughter, MCL 750.321. Following a jury trial, defendant was found guilty of two counts of negligent homicide, MCL 750.324, and sentenced to eight months in jail with credit for two days served and three years' probation. Defendant appeals as of right. We affirm.

Defendant contends that certain testimony regarding the nature and extent of the victims' injuries was inadmissible. We disagree. A trial court's ruling regarding the admissibility of evidence is reviewed on appeal for an abuse of discretion. *People v Starr*, 457 Mich 490, 494; 577 NW2d 673 (1998). An abuse of discretion is found only if an unprejudiced person, considering the facts on which the trial court acted, would say that there was no justification or excuse for the ruling made. *People v Snider*, 239 Mich App 393, 419; 608 NW2d 502 (2000).

Defendant argues that the testimony of Officer Finazzo and the medical examiners was inadmissible under MRE 401 because it was not relevant, and under MRE 403 because its prejudicial effect outweighed its probative value. Generally, all relevant evidence is admissible, and irrelevant evidence is not. MRE 402; *Starr, supra* at 497. Evidence is relevant if it has any tendency to make the existence of a fact which is of consequence to the action more probable or less probable than it would be without the evidence. MRE 401; *People v Sabin (After Remand)*, 463 Mich 43, 60; 614 NW2d 888 (2000). Under this broad definition, evidence is admissible if it is helpful in throwing light on any material point. *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2001). Materiality, however, "does not mean that the evidence must be directed at an element of a crime or an applicable defense." *Sabin, supra* at 57 (citations omitted). A material fact is one that is "'in issue' in the sense that it is within the range of litigated matters in controversy." *Id.*

Defendant was charged with two counts of involuntary manslaughter. As applied in this case, involuntary manslaughter is the killing of another without malice or intent, but while negligently doing some act lawful in itself. *People v Datema*, 448 Mich 585, 595-596; 533 NW2d 272 (1995). The degree of negligence must be gross, implying an indifference to consequences *Id.* at 596. Therefore, the prosecution sought to prove that defendant was grossly negligent in operating her motor vehicle. We believe that the testimony regarding the nature and extent of the children's injuries was relevant to show the cause of death, that the injuries were consistent with an auto accident and severe enough to have caused death, and to support an inference regarding the manner in which defendant was driving her car.

However, even if relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. MRE 403; *Sabin, supra* at 57-58. "Unfair prejudice" does not mean "damaging." *People v Mills*, 450 Mich 61, 75; 537 NW2d 909, modified on other grounds 450 Mich 1212 (1995). Any relevant evidence is prejudicial and will be damaging to some extent. *Id.* Rather, unfair prejudice exists when there is a tendency that the evidence will be given undue or preemptive weight by the jury, or when it would be inequitable to allow use of the evidence. *Id.* at 75-76.

In this case, we find that the doctors' testimony simply related, in concise medical terms, the injuries the children sustained. Officer Finazzo testified as to the children's condition immediately following the accident and was probative of the fact that the accident was the proximate cause of their deaths. We do not find the testimony to be "gory," contrary to defendant's characterization. The doctors used sterile medical terms and Officer Finazzo only stated that the children were not moving, appeared to be unconscious, and had "some cuts and scratches." Therefore, we believe that the prejudicial effect of these witnesses' testimony did not "substantially outweigh" its probative value.

Additionally, defendant appears to argue that the testimony was "unfairly prejudicial" merely because she was willing to stipulate that the children sustained certain injuries and the accident caused the children's death. Therefore, defendant asserts, there was no need for the above-mentioned testimony of Officer Finazzo and the doctors; its only purpose was to invoke sympathy from the jury. However, the prosecution has the right to present evidence regardless of the defense's willingness to stipulate because it must carry its burden of proof on each element of the crime charged. *People v Crawford*, 458 Mich 378, 389; 582 NW2d 785 (1998). Therefore, the testimony was admissible to establish the elements of involuntary manslaughter.

We also reject defendant's argument that the expert testimony of Dr. Pietak and Dr. Schmidt was inadmissible under MRE 702 because it did not assist the jury in understanding the evidence. Defendant contends that the autopsy reports, the admission of which defendant was willing to stipulate, were sufficient to show the children's injuries which caused their death.

If the trial court determines that recognized scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert may testify to the knowledge by opinion or otherwise. MRE 702; *People v Peterson*, 450 Mich 349, 362; 537 NW2d 857 (1995). Expert knowledge can assist the trier when there are facts which require expert interpretation or analysis and the witness' knowledge is of particular value. *Rouch v Enquirer & News of Battle Creek*, 184 Mich App 19, 39; 457 NW2d 74 (1990), rev'd on other grounds 440 Mich 238 (1992). In determining whether

the testimony would aid the trier of fact, it is helpful to apply the common sense inquiry whether an untrained layman would be qualified to determine intelligently and to the best possible degree the particular issue without enlightenment from experts. *People v Smith*, 425 Mich 98, 106; 387 NW2d 814 (1986).

Although defendant did not provide this Court with copies of the autopsy reports, it is relatively safe to assume that the reports were replete with medical terms. In fact, in discussing their findings at trial, the experts often had to explain certain medical terms, such as abrasion, hemorrhage, temporal lobe, orbital surfaces, contusions, and volar surface. We believe that the average person would not be able to properly interpret an autopsy report in order to glean its full meaning, and the doctors' testimony did assist the jury in their understanding of the nature, extent, and location of the children's injuries. Accordingly, we conclude that the trial court did not abuse its discretion in admitting the objected to testimony of Officer Finazzo, Dr. Pietak, and Dr. Schmidt.

Affirmed.

/s/ Jane E. Markey  
/s/ Michael R. Smolenski  
/s/ Patrick M. Meter